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7
8 **BEFORE THE**
PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 1D 2002 63226

11 FLOYD B. JONES
12 4606 5th Avenue
Los Angeles, CA 90043

A C C U S A T I O N

13 Physical Therapist's License No. AT 4767

14 Respondent.
15

16
17 Complainant alleges:

18 PARTIES

19 1. Steven K. Hartzell (Complainant) brings this Accusation solely in his
20 official capacity as the Executive Officer of the Physical Therapy Board of California,
21 Department of Consumer Affairs (Board).

22 2. On or about January 8, 1997, the Board issued Physical Therapist's
23 License Number AT 4767 to Floyd Jones (Respondent). The Physical Therapist's License was in
24 full force and effect at all times relevant to the charges brought herein and will expire on July 31,
25 2004, unless renewed.

26
27 JURISDICTION

28 3. This Accusation is brought before the Board under the authority of the

below mentioned statutes and regulations.¹

4. Section 2609 of the Code states:

“The board shall issue, suspend, and revoke licenses and approvals to practice physical therapy as provided in this chapter.”

5. Section 2660 of the Code states:

“The board may, after the conduct of appropriate proceedings under the Administrative Procedure Act, suspend for not more than 12 months, or revoke, or impose probationary conditions upon, or issue subject to terms and conditions any license, certificate, or approval issued under this chapter for any of the following causes:

“...

“(d) Conviction of a crime which substantially relates to the qualifications, functions, or duties of a physical therapist. The record of conviction or a certified copy thereof shall be conclusive evidence of that conviction.

“...

“(l) The commission of any fraudulent, dishonest, or corrupt act which is substantially related to the qualifications, functions, or duties of a physical therapist.”

6. Section 2661 of the Code states:

“A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge of a felony or of any offense which substantially relates to the qualifications, functions, or duties of a physical therapist is deemed to be a conviction within the meaning of this article. The board may order the license suspended or revoked, or may decline to issue a license, when the time for appeal has elapsed, or the judgement of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence,

1. All statutory references are to the Business and Professions Code (Code) unless otherwise indicated.

1 irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing that person
2 to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict
3 of guilty, or dismissing the accusation, information, or indictment.”

4 7. Section 493 of the Code states:

5 “Notwithstanding any other provision of law, in a proceeding conducted by a
6 board within the department pursuant to law to deny an application for a license or to
7 suspend or revoke a license or otherwise take disciplinary action against a person who
8 holds a license, upon the ground that the applicant or the licensee has been convicted of a
9 crime substantially related to the qualifications, functions, and duties of the licensee in
10 question, the record of conviction of the crime shall be conclusive evidence of the fact
11 that the conviction occurred, but only of that fact, and the board may inquire into the
12 circumstances surrounding the commission of the crime in order to fix the degree of
13 discipline or to determine if the conviction is substantially related to the qualifications,
14 functions, and duties of the licensee in question.”

15 8. California Code of Regulations, Title 16, section 1399.20, states:

16 “For the purposes of denial, suspension or revocation of a license or approval,
17 pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or act shall
18 be considered to be substantially related to the qualifications, functions or duties of a
19 person holding a license or approval under the Physical Therapy Practice Act if to a
20 substantial degree it evidences present or potential unfitness of a person to perform the
21 functions authorized by the license or approval in a manner consistent with the public
22 health, safety or welfare. Such crimes or acts shall include but not be limited to the
23 following:

24 “(a) Violating or attempting to violate, directly or indirectly, or assisting in or
25 abetting the violation of, or conspiring to violate any provision or term of the Physical
26 Therapy Practice Act.

27 “....”

28 9. Section 2661.5, subdivision (a) of the Code states:

1 “(a) In any order issued in resolution of a disciplinary proceeding before
2 the board, the board may request the administrative law judge to direct any
3 licensee found guilty of unprofessional conduct to pay to the board a sum not to
4 exceed the actual and reasonable costs of the investigation and prosecution of the
5 case.”

6 FIRST CAUSE FOR DISCIPLINE

7 (Conviction of a Crime)

8 10. Respondent is subject to disciplinary action under sections 2660,
9 subdivision (d), and 2661, in conjunction with section 1399.20 of Title 16 of the California Code
10 of Regulations, in that he was convicted of a crime substantially related to the qualifications,
11 functions, or duties of a physical therapist. The circumstances are as follows:

12 a. On or about June 24, 2002, in a criminal proceeding entitled *People*
13 *of the State of California v. Floyd Jones*, in the Municipal Court of California, County of
14 Los Angeles, case number 2CR08027, Respondent pled nolo contendere to the crime of
15 trespass, a misdemeanor, in violation of Penal Code section 602, subdivision (j).

16 b. On or about June 24, 2002, Respondent was sentenced to five days in
17 county jail, \$150 fine or fifty hours of community service or five days of working for
18 Caltrans in lieu of jail or fine, and \$100 restitution fine. Respondent was also ordered to
19 stay at least 100 yards away from the Home Depot store located at 1830 W. Slauson
20 Avenue, in Los Angeles. The imposition of sentence was suspended and Respondent was
21 placed on summary probation for a period of twelve (12) months on certain terms and
22 conditions.

23 c. The facts and circumstances of the offense are as follows:

24 On or about May 11, 2002, a loss prevention officer at the Home Depot store located
25 at 1830 W. Slauson Avenue in Los Angeles, detained Respondent upon observing that
26 Respondent walked out of the store with a hedge trimmer without paying. Respondent
27 admitted to the police officers dispatched to the store that he took the hedge trimmer
28 without paying. However, Respondent said that he had left in the store a previously

1 purchased weed eater, valued at \$100. Respondent said he wished to return the weed
2 eater that his wife had bought for him in the past couple of days at another Home Depot,
3 but was unable to do so without a receipt due to store policies. Respondent was arrested
4 and transported to the police station. At the police station, Respondent's wife was
5 contacted by telephone. She denied having purchased anything for her husband in the past
6 couple of days. When confronted with this fact, Respondent confessed that he had
7 purchased the weed eater himself, at a Sears store, but was attempting to exchange it or
8 obtain a refund from Home Depot. In a misdemeanor complaint, Respondent was
9 charged with the crime of theft, a violation of Penal Code section 484, subdivision (a).

10 SECOND CAUSE FOR DISCIPLINE

11 (Fraudulent, Dishonest, or Corrupt Act)

12 12. Respondent is subject to disciplinary action under sections 2660,
13 subdivision (l), in conjunction with section 1399.20 of Title 16 of the California Code of
14 Regulations, in that he was convicted of a crime involving a fraudulent, dishonest or corrupt act,
15 substantially related to the qualifications, functions, or duties of a physical therapist. The
16 circumstances are as follows:

17 a. The facts, allegations, and circumstances set forth in paragraph 10,
18 subparagraphs a, b, and c, are incorporated here.

19 DISCIPLINE CONSIDERATIONS

20 12. To determine the degree of discipline, if any, to be imposed on
21 Respondent, Complainant alleges that on or about July 2, 1987, in a criminal proceeding entitled
22 *People of the State of California v. Floyd Jones* in Los Angeles County Municipal Court, case
23 number 87MO4705, Respondent pled guilty to theft, a violation of Penal Code section 484,
24 subdivision (a), a misdemeanor. Respondent was sentenced to five days in county jail, three
25 years probation, and ordered not to go to Ralph's grocery stores. The record of the criminal
26 proceeding is incorporated as if fully set forth.

27 PRAYER

28 WHEREFORE, Complainant requests that a hearing be held on the matters herein

alleged, and that following the hearing, the Physical Therapy Board of California issue a decision:

1. Revoking or suspending Physical Therapist's License Number AT 4767,
issued to Floyd B. Jones;
2. Ordering Floyd B. Jones to pay the Physical Therapy Board of California
the reasonable costs of the investigation and enforcement of this case, pursuant to Business and
Professions Code section 2661.5;
3. Taking such other and further action as deemed necessary and proper.

DATED: 02/24/2003

Original Signed By: _____
STEVEN K. HARTZELL
Executive Officer
Physical Therapy Board of California
Department of Consumer Affairs
State of California
Complainant